

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
Alexandria Division

ELIDA RIVAS, et al.,)
Plaintiff,)
v.) 1:16-cv-343 (LMB/JFA)
SALDIVAR & ASSOCIATES, INC., et al.,)
Defendants.)

ORDER

Before the Court is a Report and Recommendation (“Report”) issued by a magistrate judge on August 5, 2016 [Dkt. No. 24]. The Report recommends that default judgment be entered against defendants Saldivar & Associates, LLC (doing business as and hereinafter referred to as “R&R Catering”), Robert P. Saldivar (“Saldivar”), Michelle M. Bloxton (“Bloxton”) (collectively, “defendants”) and that plaintiff Elida Rivas (“Rivas” or “plaintiff”) be awarded \$14,012.08 in damages, consisting of \$7,006.04 in unpaid minimum hourly and overtime wages and \$7,006.04 in liquidated damages, and that plaintiff Delia Gutierrez (“Gutierrez”) be awarded \$11,674.68 in damages, consisting of \$5,837.34 in unpaid minimum hourly and overtime wages and \$5,837.34 in liquidated damages, along with \$400 in litigation costs. See Report at 22. On August 19, 2016, plaintiff voluntarily dismissed defendant Manuel Chavez. The parties were advised that any objections to the Report must be filed within 14 days and that failure to file a timely objection waives the right to appeal the substance of the Report and any judgment based upon the Report. As of August 28, 2016, no party has filed an objection.

The Court has reviewed the Report, plaintiff's motion, and the file and adopts the Report in its entirety. The magistrate judge correctly determined that the Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331, due to plaintiff's claims under the Fair Labor Standards Act ("FLSA"), 29 U.S.C. § 201, et seq., and that the Court has personal jurisdiction over all defendants because R&R Catering is a Virginia corporation, Saldivar and Bloxton are Virginia residents. See Report at 8. Venue is proper pursuant to 28 U.S.C. § 1331(b) because a substantial part of the events or omissions giving rise to plaintiffs' claims occurred in this district. Id. The record also shows that all defendants were properly served and that none of them filed any response to the complaint. Id. at 9. On June 20, 2016, the Clerk entered a default against the defendants.

The Court further finds that the magistrate judge properly calculated the damages after making an appropriate correction to the calculation for Gutierrez based on counsel's representations at the hearing on August 5, 2016, id. at 20, and the costs to which plaintiffs are entitled based on the documentation submitted with plaintiffs' motion. In addition, the Court accepts the Report's recommendation that upon entry of this order, plaintiffs be permitted to file and serve an affidavit stating its fees and costs along with invoices supporting computation of the total they seek within fourteen days. Id. at 22. Accordingly, plaintiffs' Motion for Default Judgment [Dkt. No. 12] is GRANTED, and it is hereby

ORDERED that a default judgment in the total amount of \$14,012.08 be and is awarded in favor of plaintiff Elida Rivas against defendants Saldivar & Associates, LLC, Robert P. Saldivar, and Michelle M. Bloxton, jointly and severally; and it is further

ORDERED that a default judgment in the total amount of \$11,674.68 be and is awarded in favor of plaintiff Delia Gutierrez against defendants Saldivar & Associates, LLC, Robert P. Saldivar, and Michelle M. Bloxton, jointly and severally; and it is further

ORDERED that costs in the amount of \$400 to cover the filing fee be and are awarded in favor of plaintiffs Elida Rivas and Delia Gutierrez against defendants Saldivar & Associates, LLC, Robert P. Saldivar, and Michelle M. Bloxton, jointly and severally; and it is further

ORDERED that pursuant to Fed. R. Civ. P. 54(d), any application for an award of attorneys' fees and costs must be filed within fourteen (14) days of the date of this Order.

The Clerk is directed to enter final judgment in plaintiffs' favor pursuant to Fed. R. Civ. P. 55 and to forward copies of this Order to counsel of record and to defendants at their addresses of record in the file by certified mail, return receipt requested.

Entered this 29th day of August, 2016.

Alexandria, Virginia



Leonie M. Brinkema
United States District Judge